IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.18362 of 2002

Between:

Silpa Read Estates Pvt.Ltd., Rep.by its Managing Director, N.V.Plaza, 3rd Floor, Near Model House, Sai Baba Temple, Punjagutta, Hyderabad.

...PETITIONER

AND

1. The Hyderabad Urban Development Authority, 1-8-323, Paigah Plaza, Police Lines, Begumpet, Hyderabad.
2. Kollur Gram Panchayat, rep.by Sarpanch, Kollur, Ramachandrapuram Mandal, Medak District, Andhra Pradesh.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, or order or direction more particularly one in the nature of Mandamus declaring the proceedings No.7650/Uncon/UL/HUDA/2002, dated 13.09.2002 of the respondent as without jurisdiction, arbitrary and illegal and consequently set aside the same.

Counsel for the Petitioner: MR.P.SRI RAGHU RAM

Counsel for the Respondent No.1:MR.S.SATYAM REDDY & MR.B.VISWANATHA REDDY

Counsel for the Respondent No.2:MR.S.SATYA PRASAD

The Court made the following:

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ORDER:

Though the interlocutory applications are listed, the matter was heard finally and being disposed of by this order. M/s.Silpa Real Estates assails a show cause notice dated 13.09.2002. The petitioner was called upon by the first respondent to show cause as to why action should not be initiated under Section 42 of the A.P.Urban Areas (Development) Act, 1975. It is the case of the petitioner that the impugned show cause notice was issued without application of mind and knowing well that the petitioner has already approached them for development permission. This Court while admitting the Writ Petition ordered *status quo* as the petitioner apprehended that their farmhouse and other structures constructed on the land comprised in Survey Nos.119 to 121, 132 to 141 of Kollur village in Medak District. The application being W.V.M.P.No.799 of 2004 is filed by the Hyderabad Urban Development Authority (HUDA), the first respondent herein seeking vacation of the interim order. It is urged that the Writ Petition against show cause notice is not maintainable.

It is no axiomatic that ordinarily a Writ Petition would not lie against the show cause notice though there is no decision as such which requires judicial scrutiny under Article 226 of the Constitution of India. (See ***State of U.P. v. Shri Brahmadatta Sharma*** a n d ***Special Director v. Mohd. Ghulam Ghouse***). Therefore, *prima facie*, the contention of the first respondent in the Writ Petition is correct. Therefore, without expressing any opinion on the merits of the case and giving liberty to the petitioner to submit explanation raising all the grounds, the Writ Petition is disposed of. Further, as on today with regard to the structures if any constructed in the land comprised in survey Nos.119 to 121, 132 to 141 of Kollur village, Medak District, the petitioner may submit explanation to the impugned show cause notice within a period of two weeks from today. As and when such explanation is filed, the first respondent shall decide the matter within two weeks thereafter, after giving opportunity of hearing the petitioner. Till the first respondent decides the matter, *status quo* as on today shall be maintained. No costs.

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(V.V.S.RAO, J)

25th August 2004

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Hyderabad Urban Development Authority, 1-8-323, Paigah Plaza, Police Lines, Begumpet, Hyderabad.
2. The Sarpanch, Kollur Gram Panchayat, Kollur, Ramachandrapuram Mandal, Medak District, Andhra Pradesh.
3. Two CD copies.